



U.S. Department of Justice

United States Attorney
Southern District of New York

*The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007*

October 9, 2019

BY ECF

The Honorable Richard J. Sullivan
United States Circuit Judge
Thurgood Marshall
United States Courthouse
40 Foley Square
New York, New York 10007

**Re: United States v. Jawad Amir Musa, 90-cr-863-8 (RJS)
Jawad Amir Musa v. United States, 19-cv-9130 (RJS)**

Dear Judge Sullivan:

By application dated September 9, 2019, defendant Jawad Amir Musa requested leave to file a successive Section 2255 motion. (Case No. 19-cv-9130, Doc. No. 1.) Without responding to the merits of the application, the Government respectfully notes that the defendant bases his request principally on the assertion that “[d]uring the pretrial plea negotiations, the government did not offer to withdraw the §851 enhancement in exchange for Movant’s plea of guilty.” (*Id.* at 5). In his pending motion for compassionate release, however, the defendant makes the polar opposite claim: “[The defendant] was offered a plea bargain that, had he accepted it, would have resulted in a substantially lower sentence, similar to those received by his co-defendants. . . . The AUSA who prosecuted the case has confirmed that the prior felony information, which required Judge Patterson to impose the sentence of life without parole, would not have been filed if Musa had pled guilty.” (Case No. 90-cr-863, Doc. No. 304, at 3–4).¹

The Government respectfully submits that these irreconcilable statements cast doubt upon the defendant’s credibility and weigh against both motions, and in particular, against

¹ Although the defendant’s compassionate release papers in this Court were submitted through counsel, the defendant also made the same assertion in his own writing to the Bureau of Prisons: “As AUSA Wainstein writes in the attached letter, Inmate Musa would not have faced the mandatory life sentence had he pled guilty.” (Case No. 90-cr-863, Doc. No. 305-1, at 3).

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the defendant's contention that he did not forge a letter from then-Captain Earwin of the Bureau of Prisons.

Respectfully submitted,

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